

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2439:

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AS INTRODUCED

An Act relating to public finance; amending 62 O.S. 2001, Sections 841, 842, 843, 844, 846 and 847, which relate to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; modifying definitions; authorizing certain governmental entity eligibility for certain matching payments; providing for computation of maximum aggregate investment in certain areas; providing for computation of maximum matching payments to certain entities; authorizing promulgation of rules by Department of Commerce related to Oklahoma Local Development and Enterprise Zone Incentive Leverage Act; imposing certain requirements upon local governmental entities related to increment districts; authorizing payment of certain matching amounts; imposing requirements related to matching payments; providing for computation of matching payment; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 2001, Section 841, is amended to read as follows:

Section 841. As used in the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act:

1. "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, corporation, limited liability company or other legally constituted business entity;

2. "Enterprise zone" means an area as defined pursuant to subparagraph a, b, c or d of paragraph 5 of Section 690.2 of ~~Title 62 of the Oklahoma Statutes~~ this title;

3. "Estimated direct state benefits" means the incremental state tax revenues estimated by the Department of Commerce to accrue

to the state during the period of apportionment of local sales taxes, as a result of the project or projects described in the related project plan;

4. "Estimated direct state costs" means the costs projected by the Department of Commerce to accrue to the state during the period of apportionment of local sales taxes, as a result of the project or projects described in the related project plan;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Facility" means the definition contained in paragraph 8 of Section 690.2 of Title 62 of the Oklahoma Statutes this title;

~~4.~~ 7. "Governing body" means a county, city or town the governing board of a local governmental entity in the case of a single incentive district or increment district when the boundaries of the district are coextensive with or contained within the jurisdiction of any such single local governmental entity or the governing boards of a combination of counties, cities, or towns forming an incentive district or an increment district pursuant to the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes this title;

~~5.~~ 8. "Incentive district" means an area created pursuant to the provisions of the Local Development Act, Section 850 et seq. of Title 62 of the Oklahoma Statutes this title, including Section 856 of Title 62 of the Oklahoma Statutes this title; and

~~6.~~ 9. "Increment district" means an area created pursuant to the provisions of the Local Development Act, Section 850 et seq. of this title, including Section 861 of this title;

10. "Local governmental entity" means a county, city or town forming an incentive district or an increment district pursuant to the provisions of the Local Development Act, Section 850 et seq. of this title;

11. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross taxable sales during the period of apportionment of local sales taxes by the local governmental entity;

12. "Public entity" means those entities described in paragraph 15 of Section 853 of this title;

13. "State ~~matching incentive~~ or "state ~~matching incentive for~~ local enterprise matching payment" means the payment authorized by subsection A of Section ~~13~~ 844 of this ~~act~~ title; and

14. "State local government matching payment" means the payment authorized by subsection B of Section 844 of this title.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 842, is amended to read as follows:

Section 842. A. An enterprise which locates its facility within an enterprise zone or which expands its existing facility after the designation of an enterprise zone as authorized by law and which is located in an incentive district as authorized pursuant to the provisions of the Local Development Act shall be eligible for the state ~~matching incentive for~~ local enterprise matching payment authorized pursuant to Section ~~13~~ 844 of this ~~act~~ title. A local governmental entity which constructs public improvements within an enterprise zone in accordance with a project plan as authorized pursuant to the provisions of the Local Development Act shall be eligible for the state local government matching payment authorized pursuant to subsection B of Section 844 of this title.

B. For purposes of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, an enterprise engaged in a retail activity, where otherwise prohibited by the Oklahoma Enterprise Zone Act for purposes of the benefits and incentives extended pursuant to Section 690.1 et seq. of ~~Title 62 of the Oklahoma Statutes~~ this title, shall be considered an eligible enterprise for purposes of the state matching incentive payment and

the income tax credit authorized by the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

C. The combined maximum amount of state ~~matching incentive for~~ local enterprise matching payment payments and the amount of income tax credit authorized pursuant to Section ~~17~~ 2357.81 of ~~this act~~ Title 68 of the Oklahoma Statutes for an enterprise per fiscal year shall not exceed Two Hundred Thousand Dollars (\$200,000.00).

D. For purposes of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, the maximum amount of aggregate investment in all qualifying facilities located in any single county which can qualify for a state local enterprise matching incentive payment pursuant to subsection A of Section 13 844 of this act title or for an income tax credit as authorized by Section ~~17~~ 2357.81 of ~~this act~~ Title 68 of the Oklahoma Statutes shall be computed for each county of the state by multiplying Two Hundred Dollars (\$200.00) times the population of the county according to the 1999 estimate provided by the United States Bureau of the Census. The computation required by this subsection shall be the maximum amount of aggregated investment qualifying for the purposes of all enterprises for the duration of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

E. ~~The computation required by this subsection shall be the maximum amount of aggregated investment qualifying for the purposes of all enterprises for the duration of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act~~ The aggregate limit for all state local government matching payments made to any public entity on behalf of any local governmental entity within a single county pursuant to subsection B of Section 844 of this title for the duration of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, shall be an amount equal to the net benefit rate multiplied by the actual gross sales derived from the

project area, as certified by the Secretary of Commerce or successor.

F. The aggregate investment limit for all facilities located within a county which may qualify for the state local enterprise matching ~~incentive~~ payments pursuant to subsection A of Section ~~13~~ 844 of this ~~act~~ title or for an income tax credit as authorized by Section ~~17~~ 2357.81 of ~~this act~~ Title 68 of the Oklahoma Statutes shall:

1. Not be less than Twenty Million Dollars (\$20,000,000.00) for counties with a population of less than one hundred thousand (100,000) persons; and

2. Not be greater than Forty Million Dollars (\$40,000,000.00) for all other counties of the state.

G. The ~~state matching incentive payment~~ payments authorized by Section ~~13~~ 844 of this ~~act~~ title and the income tax credit authorized by Section ~~17~~ 2357.81 of ~~this act~~ Title 68 of the Oklahoma Statutes shall be available for business and governmental entities qualifying pursuant to the Local Development Act for investments made within an incentive district or for improvements made within an increment district prior to December 31, ~~2003~~ 2005, or for which an incentive district or an increment district has been created prior to December 31, ~~2003~~ 2005, if the ~~investment takes place~~ investments or improvements are begun not later than December 31, ~~2004~~ 2006.

H. The Oklahoma Department of Commerce may promulgate rules ~~to~~ :

1. To establish a procedure for an enterprise to make application for state matching incentive payments under circumstances in which the amount of the investment in a facility would be in excess of the applicable aggregate investment limit pursuant to subsection F of this section; and

2. To implement the provisions of the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act.

SECTION 3. AMENDATORY 62 O.S. 2001, Section 843, is amended to read as follows:

Section 843. A. In order to receive the state local enterprise matching ~~incentive~~ payment pursuant to the provisions of subsection A of Section 13 844 of this ~~act~~ title, the enterprise shall obtain a certification, provided by the governing body of the local governmental entity creating the incentive district, acknowledged by the chief elected official of the local governing body that the enterprise has qualified pursuant to the Local Development Act for sales tax exemption. The certification document shall include:

1. The beginning date of the exemption;
2. The ending date of the exemption;
3. The total amount of projected investment to construct or expand the facility during the period for which the incentives available pursuant to the Local Development Act will be in force and effect together with a certification by the Oklahoma Department of Commerce that the facility is located in an enterprise zone; and
4. The legal name and business entity classification of the entity to which exemption is afforded or to which sales tax payment is made by the local governmental entity or entities pursuant to the provisions of the Local Development Act.

B. The local governing body shall provide a copy of the certification document to the Oklahoma Tax Commission.

C. After the enterprise provides a certification from the local governing body, the Oklahoma Tax Commission shall make payment to the enterprise identified in the certification document equal to the amount of the sales tax from which the enterprise is certified as exempt as identified in the certification in the manner prescribed by subsection A of Section 13 844 of this ~~act~~ title.

D. The state local enterprise matching ~~incentive~~ payment shall be made only for sales tax foregone by local governmental entities or rebated to the business enterprise by local entities for

purchases made by the business enterprise and not on the basis of any sales tax collected by the business enterprise from consumers or users on taxable sales made by the enterprise.

E. In order to receive the state local governmental matching payment pursuant to the provisions of subsection B of Section 844 of this title, the local governmental entity shall provide to the Oklahoma Tax Commission a certification, acknowledged by its mayor or chairman, that such local governmental entity has created an increment district pursuant to the Local Development Act which qualifies for a state local government matching payment. The certification document shall include:

1. The beginning date of the increment district;
2. The ending date of the increment district;
3. A description of the improvements authorized by the project plan for which the state local government matching payments will be used;
4. A certification by the Oklahoma Department of Commerce that the increment district is located in an enterprise zone;
5. The amount of the local sales taxes which have been apportioned during the previous six-month period by the local governmental entity for the payment of project costs pursuant to the provisions of the Local Development Act; and
6. The name of the public entity identified in the project plan pursuant to Section 858 of this title as the entity authorized to carry out the project plan.

After the local governmental entity provides such certification, the Oklahoma Tax Commission shall make payment to the designated public entity in an amount equal to the certified amount of the local sales taxes apportioned during the previous six (6) months as prescribed by subsection B of Section 844 of this title.

SECTION 4. AMENDATORY 62 O.S. 2001, Section 844, is amended to read as follows:

Section 844. A. If an enterprise is located within an incentive district pursuant to the provisions of Section 856 of ~~Title 62 of the Oklahoma Statutes~~ this title, and the enterprise either constructs or expands a facility that is located within an enterprise zone designated pursuant to the provisions of Section 690.2 of ~~Title 62 of the Oklahoma Statutes~~ this title, the enterprise shall be eligible for a state ~~matching incentive for~~ local enterprise matching payment equal to the amount of sales tax exemption afforded to the enterprise pursuant to Section 860 of ~~Title 62 of the Oklahoma Statutes~~ this title.

B. If a local governmental entity creates an increment district pursuant to the provisions of Section 861 of this title, and that increment district is located within an enterprise zone designated pursuant to the provisions of Section 690.2 of this title, then beginning July 1, 2005, the public entity authorized by the local governmental entity to carry out the project plan shall be eligible for a state local government matching payment equal to the amount of the local sales taxes apportioned pursuant to Section 861 of this title.

C. The state local enterprise matching ~~incentive~~ payment shall be made for the twelve-month period preceding March 1 of each calendar year ~~beginning with the twelve-month period preceding March 1, 2001.~~ The state local government matching payment shall be made for the six-month periods preceding March 1 and September 1 of each calendar year.

~~C.~~ D. The state local enterprise matching ~~incentive~~ payment shall be made in an amount equal to the amount of sales tax for which the enterprise has received payment during the period prescribed by subsection ~~B~~ C of this section pursuant to Section 860 of ~~Title 62 of the Oklahoma Statutes~~ this title. The state local government matching payment shall be made in an amount equal to the amount of local sales taxes which have been apportioned under the



applicable project plan during the period prescribed by subsection C of this section pursuant to Section 861 of this title.

SECTION 5. AMENDATORY 62 O.S. 2001, Section 846, is amended to read as follows:

Section 846. As soon as practicable after verification of the amount of the state matching ~~incentive leverage payment~~ payments required by Section ~~13~~ 844 of this ~~act~~ title, the Tax Commission shall issue a warrant to the qualifying establishment or the local governmental entity in the amount of the sales tax exempted or apportioned ~~from which the establishment was exempt~~ pursuant to the applicable provisions of the Local Development Act, subject to the limitations imposed by Section ~~11~~ 842 of this ~~act~~ title.

SECTION 6. AMENDATORY 62 O.S. 2001, Section 847, is amended to read as follows:

Section 847. A. The Oklahoma Tax Commission shall maintain a record of state ~~matching incentive for~~ local enterprise matching payments and state local government matching payments made pursuant to Section ~~13~~ 844 of this ~~act~~ title and a record of income tax credits claimed pursuant to Section ~~17~~ 2357.81 of ~~this act~~ Title 68 of the Oklahoma Statutes.

B. The Tax Commission shall prepare a report separately identifying the amounts described in subsection A of this section and shall submit the report prior to April 1 each year to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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